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INFO RUCNRAQ/IRAQ COLLECTIVE

C O N F I D E N T I A L BAGHDAD 000097

SIPDIS

E.O. 12958: DECL: 08/18/2019

TAGS: [PGOV](#) [PREL](#) [IZ](#)

SUBJECT: THE WAY FORWARD ON THE AL-MUTLAQ CONTROVERSY

Classified By: Ambassador Christopher R. Hill, for reasons 1.4 b and d.

¶1. (C) Summary: The controversy that has erupted over the possible barring of Sunni political leader Saleh al-Mutlaq has highlighted some of the swirling political cross-currents evident in the run-up to Iraqi elections in March. Few if any contacts have anything good to say about Mutlaq but many recognize the risks involved in disqualifying him and betting that his political influence is relatively limited. The pressure from the Mutlaq controversy has divided the Independent High Electoral Commission (IHEC), a generally weak institution, whose commissioners are hand-picked by the major party factions. While none of the contacts we have spoken with believe that the controversy will end in a political crisis and a Sunni boycott, we believe we must remain vigilant to guard against this possibility. The key element in the Embassy's strategy is to stay lashed tightly with UNAMI on this issue, allowing SRSg Melkert and his staff to take the lead in public. We do not believe that a public statement would serve a useful purpose in this context. Accusations of Baathist affiliation evoke intense emotions and visceral political reaction in Iraq. A statement will not calm those feelings and it will not provide support to well-intentioned Iraqi politicians trying to navigate these treacherous political currents and find a quiet way out. End Summary.

GETTING A GOOD READ ON THE CONTROVERSY

¶2. (C) The controversy that has erupted over the possible disqualification of Sunni politician Saleh al-Mutlaq has highlighted some of the treacherous political cross-currents evident in the run-up to Iraqi elections in March. No one of significance has come out strongly in defense of Mutlaq and his crypto-Ba'athist politics. Even members of his Iraqiyya coalition are reportedly nervously eyeing the political exits, squirming as he calls on them to withdraw from the campaign in solidarity if he is barred. Interestingly, they have also been the most anxious for USG intervention. Strongly anti-Ba'athist politicians like the PM seem to welcome the decision by the Commission on Accountability and Justice (AJC) (see septel for Ambassador's conversation with al-Maliki). Even President Talabani, not known for extreme views, is hard over on the Mutlaq case, insisting to the Ambassador January 13 that "Mutlaq is 100 percent tied to the Syrian Ba'ath Party and I have no sympathy for him. He has no one to blame but himself," Talabani added, while insisting that Mutlaq has legal recourse to an appeals procedure. Deputy Speaker Attiyah also underscored that it is necessary to let process play itself out in the proper administrative and legal channels. Some contacts believe the effort to disqualify Mutlaq originated with the Iranians.

¶3. (C) The pressure from the Mutlaq controversy has divided the Independent High Electoral Commission (IHEC), a generally weak institution, whose commissioners are hand-picked by the major party factions. Contacts tell us that the Shia-affiliated commissioners and at least one Sunni from the

Iraqi Islamic Party (IIP) are strongly in favor of accepting without question the AJC's findings of ineligibility regarding Mutlaq and 15 political parties. No decision has been taken at IHEC but its chairman Faraj al-Hadairy has told poloffs that sentiment would likely prevail if he brings the matter to a vote. Hadairy recognizes the dangers such a decision could pose to the fragile preparations for the March elections, and he is also aware, as are many of our contacts, of the shoddy evidentiary and legal basis of the AJC's decision. However, he insists he does not have the votes at present to prevent the decision from being implemented.

THE WAY FORWARD

¶4. (C) The worst case scenario is that this political controversy deteriorates into a larger political crisis and eventually provokes a Sunni boycott of the elections. None of the contacts that we have spoken to, including Talabani, believe that such a scenario is likely. Nonetheless, we believe we need to remain vigilant to guard against this possibility. The Embassy will continue to weigh in with Party leaders, as we have done since the controversy broke, particularly with the Shia and the Kurds, urging them to avoid taking or supporting precipitous action based on short-term political calculations. We will also underscore that there are distinct risks involved in putting to the test the theory, advocated by Maliki and others, that Mutlaq lacks the political influence to galvanize a national political reaction or precipitate a political crisis.

QUIET INITIAL EFFORT AT THE COR TO REVERSE COURSE

¶5. (C) We have some preliminary indications that these interventions are beginning to bear fruit. While all the contacts we have spoken to have reiterated their abhorrence of Baathism and their low regard for Mutlaq, some are beginning to acknowledge the risks involved. Shia independent Qasem Daoud, told Pol M/C January 13 that although he finds Mutlaq's political views abhorrent, he sees the need to reverse the disqualification, and noted that there is a quiet but vigorous effort at the COR to defuse the crisis. It is unclear if this effort, if it gathers momentum, would take the form of attempting to reverse the AJC disqualification determination or getting the word to IHEC through party leaders that they should ignore the AJC letters. This effort in the COR is being spearheaded by a COR special committee recently formed to reviewed the AJC decision. Most members have been drawn from COR committee with oversight responsibilities for de-Ba'athification matters. There is evidence that COR members behind the scenes are troubled by the legal irregularities of the AJC decision. Two COR committees have written separate letters urging IHEC not to act on the AJC recommendation against Mutlaq and 15 political parties.

STAYING LASHED TIGHTLY WITH UNAMI

¶6. (C) The key element in the Embassy's strategy is to stay lashed tightly with UNAMI on this issue, allowing SRSG Melkert and his staff to take the lead in public. The Ambassador has discussed the issue at length with Melkert and the Embassy's Political Section has been in close contact with UNAMI counterparts since the controversy arose, exchanging views on the dynamics at IHEC and on the most effective strategies to address the issue in the COR.

PUSHING FOR A "VET THE WINNERS" POSTURE

¶7. (C) The Embassy, with UNAMI, will attempt to postpone any IHEC decision, given the risks of a decision favoring Mutlaq's expulsion. We will also support ideas endorsed by UNAMI, including the possibility of provisional certification of candidates at this time-- to facilitate ballot printing

and orderly electoral preparations -- while helping IHEC (and the COR, if necessary) establish procedures to "vet the winners" for Ba'athist affiliations (any winners found subject to the strictures would not be seated; the next highest vote-getter from the same coalition would be given the seat). We (with UNAMI) believe the language of the Iraqi Constitution and relevant Iraqi law (the 2008 law that created the AJC) is flexible enough to permit such procedures. (NOTE: We also need to ensure that IHEC does not take action prematurely to remove the name of Mutlaq's party from the ballot or his name from the official candidate list, both of which will be printed in mass quantity within a few weeks. END NOTE.)

AVOIDING PUBLIC STATEMENTS

18. (C) We do not believe that a public statement would serve a useful purpose in this context. Accusations of Baathist affiliation evoke intense emotions and visceral political reaction in Iraq. A statement will not calm those feelings and it will not provide support to well-intentioned Iraqi politicians trying to navigate these treacherous political currents and find a quiet way out that avoids a political crisis but does not leave too much evidence of intervention. This calls for behind-the-scenes but persistent political efforts -- led by UNAMI and backed by the Embassy to the hilt. A public statement could also provide fodder for the Iranians and others to paint the U.S. as supporting a return of the QIranians and others to paint the U.S. as supporting a return to power by the Ba'athists, a powerful attack line that has been used effectively at certain junctures in the past. In the end, Mutlaq may have to rely on the legal process of appeals if this behind-the-scenes intervention by Iraqi politicians -- with our and UNAMI's support -- does not succeed. We need to intervene firmly but quietly to stop this effort to bar Mutlaq, but recognize that we may need to do some damage control if it doesn't succeed.

HILL